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Letter dated 12 January 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 19 October 2004 (S/2004/850). The Counter-Terrorism Committee has received the attached fourth report from the Bahamas submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 20 December 2004 from the Permanent Representative of the Bahamas to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I have the honour to refer to your letter dated 20 September 2004 regarding the third report submitted by the Bahamas pursuant to paragraph 6 of Security Council resolution 1373 (2001) on 3 November 2003.

Please find enclosed the fourth report requested by the Committee (see enclosure).

I stand ready to provide any further information that may be required.

(*Signed*) Paulette A. **Bethel**
Permanent Representative

Enclosure*

Fourth report of the Commonwealth of the Bahamas submitted to the United Nations Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Introduction

This fourth Report is submitted to the United Nations Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, and details the actions taken by the Government of The Bahamas to implement the provisions of resolution 1373 (2001).

1. IMPLEMENTATION MEASURES

Criminalization of terrorist acts and their financing

1.1 The CTC would appreciate receiving a progress report on:

- ***The enactment of the Anti-Terrorism Bill***

The Anti-Terrorism Bill was debated and passed by the House of Assembly on 17th November 2004 and the Senate on 15th December 2004. It has now been forwarded to the Governor General for Assent, and it will then be published as law in the Official Gazette of The Bahamas.

A copy of the Anti-Terrorism Bill 2004 is attached herewith.

- ***The Bahamas becoming a party to the remaining seven international instruments related to the prevention and suppression of international terrorism to which it is not yet a party.***

The Government of The Commonwealth of The Bahamas is committed to the objectives of the United Nations in its fight to prevent and suppress international terrorism and has this issue under active consideration.

Effectiveness in the protection of the financial system

1.2. Regarding sub-paragraph 1(c) of the Resolution, the CTC would be grateful for an outline of the procedures used to designate an organization as a terrorist organization. Could The Bahamas provide data on the number of terrorist organizations that it has so designated, in particular foreign terrorist organizations other than those listed under the United Nations Security Council Resolution 1267.

* Annexes are on file with the Secretariat and are available for consultation.

The International Obligations (Economic and Ancillary Measures) Act 1993 – enables the Governor General to make orders or regulations in relation to the prohibition or restriction of activities for the purpose of implementing a decision, resolution or recommendation of an international organization or association of states of which The Bahamas is a member. Therefore, action can be taken in the situation where an international organization or association of states requests its members to take economic measures against a foreign state, or where the Governor General is of the opinion that a grave breach of international peace and security has occurred that has resulted or is likely to result in a serious international crisis.

The International Obligations (Economic and Ancillary Measures) Act was used, as an interim measure, by the Government of The Bahamas immediately after 11 September 2001, to make provision for the seizure and confiscation of funds of persons suspected of terrorism and terrorist acts. On 25 September 2001, pursuant to the Act, the Governor General executed the International Obligations (Economic and Ancillary Measures) (Afghanistan) Order 2001.

The Order prohibited the sale or supply of goods to Afghanistan, and the provision of financial services to, or any business with, Osama Bin Laden and the Al Qaida organization or any individuals or entities associated with them. The Order also froze any accounts held in the name of Osama Bin Laden, the Al Qaida organization or any person or organization associated with them, as designated from time to time by the Attorney General, after consultation with the Governor of the Central Bank of The Bahamas and the Director of the Financial Intelligence Unit.

The Attorney General, after consultation with the Governor of the Central Bank and the Director of the Financial Intelligence Unit has issued additional notices under the International Obligations (Economic and Ancillary Measures) Order.

The Anti-Terrorism Bill 2004 – Clause 4 empowers the Attorney General to apply to a judge of the Supreme Court, in Chambers, for an order in respect of an entity if the entity is included on a list of entities designated as terrorist entities by the United Nations Security Council; and the Attorney General has reasonable grounds to believe that the entity has knowingly committed or participated in the commission of a terrorism offence; or is knowingly acting on behalf of, at the direction of, or in association with, an entity designated as a terrorist entity by the United Nations Security Council.

Where an order is made, the Attorney General shall, within seven days after the date of the order, publish in a daily newspaper in circulation in The Bahamas a copy of the order and a statement that the matter will be reviewed every six months. Within sixty days after the date of publication of an order, the entity in respect of which the order is made may apply to a Judge of the Supreme Court for a review of the order and shall notify the Attorney General of the application. No order has been made to date, as the Anti-Terrorism Bill still has to be assented to by the Governor General and brought into force.

*1.3 **The implementation of paragraph 1 of the Resolution requires States to have in place effective machinery for the prevention and the suppression of the financing of terrorist acts. In this regard, does The Bahamas provide training to its administrative, investigative, prosecutorial and judicial authorities aimed at enforcing its laws in relation to typologies and trends to counter-terrorist financing methods and techniques? In the same context, does The Bahamas train said authorities in techniques for tracing property, which represents the proceeds of crime, or is to be used to finance terrorism?***

The Director of Public Prosecutions has participated as a representative of the Caribbean Financial Action Task Force, in meetings of the Financial Action Task Force's (FATF) Working Group on Review of the IMF/World Bank Anti-Money Laundering/Combating the Financing of Terrorism Methodology.

Prosecutors from the Office of the Attorney General attended a Workshop and Seminar for Prosecutors, which was held from 13-18 February, 2004, in Trinidad and Tobago. The Workshop was sponsored by the Caribbean Anti-Money Laundering Programme (CALP). It was an intensive five-day training period focused on assisting the prosecutors to understand what is necessary for the formulation of production orders, restraint orders, receivership orders and ultimately confiscation/forfieture orders and their enforcement.

Officers of the Royal Bahamas Police Force along with Officers from the Customs Department attended a three-day seminar on Counter-Terrorism, which was sponsored by the United States Embassy in Nassau, The Bahamas, in July 2004. Also, as a part of their training – especially since 11 September 2001, these officers have been instructed to be more vigilant and alert to the threat of terrorist and terrorist activities domestically and internationally.

The Acting Director of the Financial Intelligence Unit and a Prosecutor from the Office of the Attorney General attended the Caribbean Financial Action Task Force Conference on Compliance Issues, which was held from 7-8 September 2004 in Trinidad and Tobago. The theme of the Conference was entitled "The Changing Face of Anti-Money Laundering and Combating the Financing of Terrorism Compliance in the Caribbean Basin Region". Presentations included "Developments in International Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Benchmarks", "Implementing Effective Suspicious Activity Reporting Systems", and "The Role of the Financial Intelligence Unit".

A National Seminar on terrorism was held on 16 – 17 September 2004. Speakers included a representative from the United Nations Office on Drugs and Crime, who spoke on the International Convention for the Suppression of the Financing of Terrorism, which was adopted by the General Assembly of the United Nations on 9th December 1999, and UNSC Resolution 1373. Also present was a representative of the Inter American Committee Against Terrorism (CICTE), who spoke on the Inter-American Convention Against Terrorism adopted at the Second Plenary Session of the Organization of American States held 3 June 2002. A representative of the Commonwealth Secretariat made a comparative analysis of the Secretariat's model anti-terrorism legislation and The Bahamas' draft Anti-Terrorism Bill. A third speaker,

a senior official from the Office of the Attorney General, discussed and explained the provisions of The Bahamas' draft Anti-Terrorism Bill. Four sessions were held for various groups of society including parliamentarians, individuals involved in professional services, civil society, and the public sector (including prosecutors, police, defence force, customs and immigration officers) and trade unions.

The Central Bank of The Bahamas has kept abreast of international best practices and trends relative to anti-money laundering and combating terrorist financing by several means, including drawing the attention of its licensees to various international initiatives (such as guidance issued by the Financial Action Task Force) to inhibit the financing of terrorism. The Bank has also ensured that members of staff receive periodic training and information on combating the financing of terrorism.

Legal Counsel for the Central Bank participated as a representative of the Caribbean Financial Action Task Force, in the meeting of the FATF's Working Group on Terrorist Financing held in New York City in September 2004. The meeting focused on discussions of standards in relation to, inter alia, cash couriers, non-profit organizations, wire transfers, and Technical Assistance Needs and Assessment reports. Assistant Legal Counsel of the Bank has, during the course of 2004, attended anti-money laundering conferences, which addressed combating the financing of terrorism.

In October 2004, two members of the Central Bank's Bank Supervision Department attended a five day Caribbean Group of Banking Supervisors' Course in Jamaica on the general subject of conducting anti-money laundering examinations, which also focused on countering terrorist financing.

Legal Counsel for the Financial Intelligence Unit attended the FATF/Moneyval Joint Typologies Exercise, which was held from 6-8 December 2004 in Moscow, Russia. Workshops focused on Money Laundering Vulnerabilities in the Insurance Sector, Alternative Remittance Systems, Money Laundering Trends and Indicators, Drug Trafficking Related Terrorist Financing and Money Laundering Methods Associated with Human Being Trafficking and Illegal Migration.

1.4 In the context of the effective implementation of paragraph 1 of the Resolution, has The Bahamas adopted measures to prevent terrorists and other criminals from having unfettered access to wire transfers to move their funds? In particular, the CTC is interested in measures with regard to:

- *Monitoring the compliance of financial institutions with rules and regulations governing wire transfers (cross-border and domestic);*

- *Detecting such misuse when it occurs, in particular by ensuring that basic information on the originator of the wire transfer is immediately available to the relevant authorities.*

At present the Central Bank of The Bahamas requires its Licensees to put in place policies and procedures to ensure compliance with relevant Bahamian laws and international standards and initiatives. To this end, the Bank's examination team seeks to ascertain during the course of the examination process of Licensees, whether the latter have adequate systems and controls in place to detect and combat terrorist financing. The Bank's examination team has developed an examination template on the specific issue of internal controls, which Licensees should have in place for wire transfers and other payments. As part of the examination process, examiners review and assess the adequacy of the Licensees' policies and procedures with regard to wire transfers and other payments.

The examination takes into account whether originator information is available and complete. Licensees must, therefore, ensure that they maintain records of all payment messages sent via electronic payment and message systems such as SWIFT, in accordance with the provisions of the Financial Transactions Reporting Regulations, 2000. Licensees are required, pursuant to these regulations to maintain records of all wire transfers, including the name and address of the originator of the funds, the fields for the ordering and the final destination of the funds.

In addition, the International Obligations (Economic and Ancillary Measures) (Afghanistan) Order 2001, prohibited the sale or supply of goods to Afghanistan, and the provision of financial services to, or any business with, Osama Bin Laden and the Al Qaida organization or any individuals or entities associated with them.

The Bank has also brought into effect the Exchange Control Regulations (Iraq) Directions, 1990, which prohibit payments to persons resident in Iraq without the consent of the Controller of the Exchange.

The Central Bank is currently in the process of determining what steps should be taken to comply with the FATF's Special Recommendation VII on wire transfers. In due course, a recommendation will be made by the Central Bank to the Government on the implementation of SRVII.

Effectiveness of counter-terrorism

1.5 Within the context of the implications of sub-paragraph 2(e) of the Resolution, the CTC would be grateful to know how The Bahamas ensures that there is adequate cooperation and information sharing among the various government agencies that may be involved in investigating the financing of terrorism, including their foreign counterparts.

The Royal Bahamas Police Force is a member of INTERPOL, and has a unit that responds to requests for assistance from INTERPOL. The Commissioner of Police is the person who receives information from INTERPOL that relates to terrorists or those who support terrorist acts.

The Commissioner of Police liaises on a regular basis with the Attorney General in relation to criminal offences committed within The Bahamas, and those committed

outside of The Bahamas, which affect the jurisdiction. The Commissioner of Police is also a member of the Association of Caribbean Commissioners of Police. This body meets annually to discuss security and terrorism matters, and other matters of mutual interest to the security forces in the Caribbean.

The Royal Bahamas Defence Force is a member of the Caribbean Information Sharing Network (CISN), which is a multilateral internet-based network, which is used by Caribbean and United States military and law enforcement agencies to share information on transnational issues and threats of common concern. The network was established in 1998 in Jamaica by the Caribbean Security Chiefs, and offers a collaborative approach to address regional issues. The Charter of the organization was adopted at the Caribbean Nations Security Conference (CANSEC), which was held in Nassau, The Bahamas in March 2000. In March 2003 the CISN held their conference in Nassau, The Bahamas.

The Bahamas Customs Department is a member of the World Customs Organization (WCO) and the Caribbean Customs Law Enforcement Council (CCLEC). Both organizations exchange information and intelligence worldwide.

Requests for judicial assistance in criminal matters may be made to the Attorney General, who is the competent authority under the **Mutual Legal Assistance (Criminal Matters) Act**. This Act provides for requests for assistance in criminal matters from countries with which The Bahamas has signed Mutual Legal Assistance Treaties (MLAT). The Bahamas has MLATs with the United States and Canada with regard to all criminal matters, and with the United Kingdom with regard to drug trafficking offences only.

Requests for judicial assistance in criminal matters may also be made to the Attorney General by countries with whom The Bahamas does not have an MLAT via the provisions of the **Criminal Justice (International Cooperation) Act.**

The **Financial Intelligence Unit Act** empowers the Financial Intelligence Unit (FIU) to act on information received from the Commissioner of Police of The Bahamas or from any Foreign Financial Intelligence Unit or law enforcement authority to freeze a person's bank account for a period not exceeding five days. The FIU is also empowered to share information with the Commissioner of Police or any Foreign Financial Intelligence Unit, and to enter into any agreement or arrangement, in writing, with a Foreign Financial Intelligence Unit for the discharge or performance of the functions of the FIU. Ultimate responsibility for the FIU lies with the Attorney General, who is apprised of all matters involving the FIU.

Requests for assistance from regulators from foreign jurisdictions may be made to the Securities Commission, which is governed by the **Securities Industry Act**, the Registrar of Insurance Companies, who is governed by the **Insurance Act**, the Inspector of Banks and Trust Companies, who is governed by the **Banks and Trust Companies Regulation Act**, and the Inspector of Financial and Corporate Service Providers, who is governed by the **Financial and Corporate Service Providers Act**. These Bahamian regulatory agencies may exchange information with their foreign counterparts to assist the overseas regulator with the conduct of civil or

administrative investigations and proceedings, for the enforcement of laws, regulations and rules administered by that authority.

Pursuant to the provisions of the **Bank and Trust Companies Regulation Act,** the Central Bank is empowered to share information with its foreign counterparts for the purpose of facilitating consolidated supervision. The Bank is also empowered to share information with domestic regulators and with the Financial Intelligence Unit Act. Pursuant to the **Central Bank of The Bahamas Act,** the Bank is empowered to share information with foreign regulators.

In 2002, the Central Bank entered into a Memorandum of Understanding with domestic financial services regulators for the purpose of facilitating, inter alia, information sharing among these regulators. The Memorandum was executed between the Bank and the Securities Commission of The Bahamas, the Registrar of Insurance, the Compliance Commission and the Inspector of Financial and Corporate Service Providers.

The Bank has executed Memoranda of Understanding with Panama and Costa Rica and with the banking supervisors of Jamaica, Belize and Barbados for the purpose of consolidated supervision of banking groups having a presence in these countries and in The Bahamas. The Bahamas is in the process of negotiating with Brazil, Peru and Mexico to conclude Memoranda of Understanding, with respect to regulatory information sharing, with these countries.

The Office of the Attorney General, the Securities Commission, and the Central Bank, together with officials at the United States Securities and Exchange Commission (SEC) have agreed, in principle, a Undertaking, which would facilitate Bahamas financial service regulators disclosing regulatory information to the SEC for the purpose of enabling the SEC to carry out the conduct of civil or administrative investigations and proceedings to enforce laws, regulations and rules administered by the SEC.

Effectiveness of customs, immigration and border controls

1.6 Effective implementation of paragraphs 1 and 2 of the Resolution requires the operation of effective customs and border controls with a view to preventing and suppressing the financing of terrorist activities. Does The Bahamas impose controls on the cross-border movement of cash, negotiable instruments, precious stones and metals? Please also provide information concerning any relevant monetary or financial thresholds.

With respect to Bahamian dollars, The Bahamas Exchange Control Regulations require persons to obtain the Central Bank's permission before exporting B$200.00 or more Bahamian dollars. Residents of The Bahamas must obtain permission from the Central Bank to export any foreign currency of any amount. Pursuant to **the United States of America and The Bahamas Pre-Clearance Agreement Act** all persons leaving The Bahamas to travel to the United States must declare whether they are carrying US$10,000.00 or more.

2. ASSISTANCE AND GUIDANCE

2.1 The CTC wishes to emphasize once more the importance that it attaches to the provision of assistance and advice in connection with the implementation of the Resolution.

2.2 The CTC's Directory of Assistance (www.un.org/sc/ctc) is frequently updated to include new relevant information on available assistance. The CTC would appreciate receiving information from The Bahamas concerning areas where it might be in a position to provide assistance to other States in relation to the implementation of the Resolution.

In March 2003, the Director of Legal Affairs traveled to the Seychelles and assisted in the preparation of the first report, which the Seychelles submitted to United Nations Security Council Committee established pursuant to Resolution 1373 (2001) concerning Counter-Terrorism. The Bahamas is available to provide such assistance to any other country that requires it.

The Bahamas is also available to provide assistance to any country in the drafting of anti-terrorism legislation.

The Government of The Bahamas is willing to assist in any way that it can to help the Security Council in its fight to prevent and suppress international terrorism.